

IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE: ) CASE NO. **15-60977-PMB**  
**David Vincent Dubiansky,** )  
DEBTOR. ) CHAPTER 13  
)

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**APPLICATION FOR COMPENSATION**

COMES NOW King & King Law LLC, counsel of record for David Vincent Dubiansky, Debtor in the above-styled case, and files this Application for Compensation and respectfully represents the following:

1.

Debtor filed the instant Chapter 13 Bankruptcy on June 12, 2015. His 341 Meeting of Creditors was held and concluded on July 28, 2015. His confirmation hearing was scheduled for August 27, 2015, and was continued at that hearing to October 8, 2015. However, on September 1, 2015, Debtor's case was dismissed for failure to pay his final filing fee installment.

2.

Pursuant to the Attorney-Client Agreement agreed to and signed by Debtor, pursuant to the Disclosure of Compensation of Attorney for Debtor (Bankruptcy Rule 2016(b) statement), and pursuant to Paragraph 4(B) of the Chapter 13 plan, Counsel is entitled to a base fee of \$3,400 for representation in this Chapter 13 case.

3.

Prior to the dismissal of this case, Debtor paid \$533.10 to the Chapter 13 Trustee through an Employer Deduction Order. The Trustee has paid a total of \$0.00 in adequate

protection payments due to the fact that the allotted creditor, Carmax, has not filed a proof of claim, and has paid himself \$29.34 for his fees in the case. The remaining balance on hand is \$503.76 as of the date of filing of this Application. Counsel understands, however, based on the Trustee's Motion for Direction that there is \$117.50 of unpaid filing fees which would be paid prior to Counsel's fees. That leaves a balance of \$386.26 due to Counsel for fees in this case.

4.

Pursuant to Paragraph 4(B)(2) of Debtor's plan, if the case is dismissed prior to confirmation, "the Trustee shall pay fees to Debtor's attorney from the proceeds available and paid into the office of the Trustee by Debtor or on Debtor's behalf, all funds remaining, not to exceed \$3,400, after payment of any unpaid filing fees, Trustee's fees and expenses, and adequate protection payments, if applicable." Counsel asserts that the amount of \$386.26 is reasonable based on the circumstances of this case, and requests that the Trustee be ordered to disburse the same to Counsel.

5.

The attorney's fees are administrative expenses under 11 U.S.C. Section 503(b)(2), which expressly allows as administrative expenses items listed in 11 U.S.C. Section 330(a). Under Section 330(a)(4)(B), "reasonable compensation to the debtor's attorney for representing the interests for the debtor in connection with the bankruptcy case," is allowed as an administrative expense. 11 U.S.C. §330(a)(4)(B). Following Section 1326(a)(2), "the trustee *shall* return any such payments not previously paid and not yet due and owing to creditors...to the debtor, *after deducting any unpaid claim allowed under section 503(b).*" 11 U.S.C. §1326(a)(2), emphasis added.

6.

In determining the reasonableness of attorney's fees, the Court should look no further than whether or not the fees have been objected to. As Judge Bonapfel noted following the adoption of General Order 6-2006 regarding paying debtor's counsel:

“When...the circumstances indicate that a proposed flat fee covering all services that are likely to be required in the case falls within the range of reasonableness, the lawyer has met the burden of demonstrating its reasonableness. The Court cannot fairly reduce it in the absence of an objection that articulates reasons that it is excessive and provides the Court with an appropriate basis for disallowing it in whole or in part.” *In re Hayes*, 2007 Bankr. LEXIS 2194 (Bankr. N.D. GA 2007).

In this case, no objection has been filed to articulate why the fees agreed to by Debtor and Counsel should be disallowed. As such, the payment of \$386.26 to Counsel for Debtor should be deemed reasonable without further inquiry.

7.

As this case was dismissed prior to confirmation, Sections 1326(a)(2), 503(b)(2), and 330(a)(4)(B) apply. The application of these sections requires that the Trustee be ordered to remit any remaining funds to Debtor *after* making payments to both adequate protection and administrative expenses. Since the amount of fees agreed to by Debtor and Counsel represent reasonable fees for representation, the result in this case is that the Trustee is to remit \$386.26 to Counsel for the representation of Debtor in this case.

8.

Pursuant to Bankruptcy Rule 2016, Counsel asserts that 1) no fees have been received by applicant to date; 2) any and all fees promised to applicant were agreed to be paid by the debtor from payments made to Chapter 13 Trustee pursuant to the Chapter 13 Plan; 3) no compensation

has been shared with any other entity.

9.

In the alternative and as a supplement to the above, pursuant to Bankruptcy Rule 2016, Counsel has attached as Exhibit A, a detailed statement regarding the services provided and time spent on those services. Counsel reminds the Court that we do not bill on an hourly basis for anticipated services as listed in the 2016(b) statement filed with the Court, instead Counsel and Debtor agreed on a flat fee, pursuant to General Order 6-2006. As such, the times referenced in the supplement are Counsel's estimation based on a careful review of the Debtor's case and internal file.

WHEREFORE, King & King Law LLC prays for an order granting its Application for Compensation as set forth above.

Respectfully submitted,  
King & King Law LLC

/s/ \_\_\_\_\_  
John Brookhuis  
GA Bar #940484  
King & King Law LLC  
215 Pryor Street  
Atlanta, Georgia 30303  
(404) 524-6400  
*notices@kingkingllc.com*  
**Attorney for Debtor**

# EXHIBIT

# A

UNITED STATES BANKRUPTCY COURT  
Northern District of Georgia  
ATLANTA Division

IN RE: ) CASE NO. 15-60977-PMB  
David Vincent Dubiansky, )  
Debtor. ) CHAPTER 13

Fee Supplement Detailing Time Spent on All Services

Date	Task	Minutes	Atty/Paralegal
6/12/2015	Intake Meeting.	150	Attorney
6/12/2015	Final preparation and filing of petition.	30	Attorney
6/12/2015	Faxed notices to secured creditors, primarily the car creditor to stop repossession.	15	Paralegal
Various dates	Creation, organization and filing of client's file folder; sending tax returns to the Trustee; Filing of plan, credit counseling certificate, pay advices.	60	Paralegal
Various dates	Phone calls to Debtor regarding filing fee installment payments.	60	Paralegal
7/28/2015	Appearance at scheduled 341 meeting which was held and concluded.	60	Attorney
Various dates	Phone calls/email and letters to Debtor regarding objections to confirmation.	45	Paralegal
Various dates	Phone calls/email and letters to Debtor regarding objections to confirmation.	15	Attorney
Various dates	Drafting amendments to plan and schedules.	30	Attorney
8/27/2015	Attendance at confirmation hearing.	60	Attorney
Various dates	Service of process.	60	Paralegal

	Minutes	Fee
Total Paralegal Time:	240	\$460.00
Total Attorney Time:	345	\$1,437.50
Total Fee:		\$1,897.50

Attorney Time, Per Hour = \$250

Paralegal Time, Per Hour = \$115

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)

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**CERTIFICATE OF SERVICE**

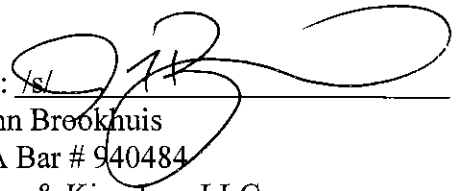
I hereby certify, under penalty of perjury, that I am more than eighteen years of age and that on this day I served a copy of the within Application for Compensation upon the following and upon the parties in the attached matrix by depositing a copy of the same in U.S. Mail with sufficient postage affixed thereon to ensure delivery to:

David Vincent Dubiansky  
815 S. Cobb Dr. SE, Unit 1209  
Marietta, GA 30060

Adam M. Goodman, Chapter 13 Trustee  
260 Peachtree Street NW, Suite 200  
Atlanta, GA 30303  
Via email: mail@13trusteeatlanta.com

Guy Gebhart, Acting United States Trustee  
362 Richard B. Russell Building  
75 Spring Street, SW  
Atlanta, GA 30303

This 30th day of October, 2015.

By:   
John Breckhuis  
GA Bar # 940484  
King & King Law LLC  
215 Pryor Street  
Atlanta, Georgia 30303  
(404) 524-6400  
notices@kingkingllc.com  
**Attorney for Debtor**

Label Matrix for local noticing  
113E-1  
Case 15-60977-pmb  
Northern District of Georgia  
Atlanta  
Fri Oct 30 11:42:40 EDT 2015

AT&T Mobility II LLC  
c/o AT&T Services, Inc  
Karen Cavagnaro, Paralegal  
One AT&T Way, Room 3A104  
Bedminster, NJ 07921-2693

BRIGHT HOUSE NETWORKS  
C/O CRD PRT ASSO  
0 ONE GALLERIA TOWER 13355 NOEL RD  
DALLAS, TX 75240

CARMAX AUTO FINANCE  
2040 THALERO ST  
RICHMOND, VA 23230-3200

Florida Hospital Orlando  
Po Box 538800  
Orlando, FL 32853-8800

Adam M. Goodman  
Adam M. Goodman, 13 Trustee  
Suite 200  
260 Peachtree Street  
Atlanta, GA 30303-1236

Midland Credit Management, Inc  
as agent for MIDLAND FUNDING LLC  
PO Box 2011  
Warren, MI 48090-2011

RENTDEBT AUTOMATED COLLECTIONS  
P.O. BOX 171077  
NASHVILLE, TN 37217-8077

T-Mobile  
C/O AMSHER COLL  
600 BEACON PKWY WE 300  
BIRMINGHAM, AL 35209-3120

AMERICAN EXPRESS  
PO BOX 981537  
EL PASO, TX 79998-1537

American Express Bank, FSB  
c o Becket and Lee LLP  
POB 3001  
Malvern, PA 19355-0701

CACH, LLC  
4340 S. Monaco Street, 2nd Floor  
Denver, CO 80237-3485

Capital One Bank (USA), N.A.  
PO Box 71083  
Charlotte, NC 28272-1083

GENESIS/FEB-RETAIL  
PO BOX 4499  
BEAVERTON, OR 97076-4499

IRS  
Centralized Insolvency Opera  
P.O. Box 7346  
Philadelphia, PA 19101-7346

Midland Funding LLC  
Midland Credit Management, Inc  
as agent for MIDLAND FUNDING LLC  
PO Box 2011  
Warren, MI 48090-2011

Recovery Management Systems Corporation  
25 S.E. 2nd Avenue, Suite 1120  
Miami, FL 33131-1605

U. S. Attorney  
600 Richard B. Russell Bldg.  
75 Spring Street, SW  
Atlanta GA 30303-3315

AT&T Mobility II LLC  
c/o AT&T Services, Inc  
Karen A. Cavagnaro - Lead Paralegal  
One AT&T Way, Room 3A104  
Bedminster, NJ 07921-2693

(p)BANK OF AMERICA  
PO BOX 982238  
EL PASO TX 79998-2238

CAPITAL ONE BANK USA NA  
PO BOX 30281  
SALT LAKE CITY, UT 84130-0281

David Vincent Dubiansky  
815 S. Cobb Dr. SE  
Unit 1209  
Marietta, GA 30060-3177

(p)GEORGIA DEPARTMENT OF REVENUE  
COMPLIANCE DIVISION  
ARCS BANKRUPTCY  
1800 CENTURY BLVD NE SUITE 9100  
ATLANTA GA 30345-3202

Karen King  
King & King Law LLC  
215 Pryor Street  
Atlanta, GA 30303-3748

OAK RAMBLE  
C/O RNT DEBT  
PO BOX 171077  
NASHVILLE, TN 37217-8077

Synchrony Bank  
c/o Recovery Management Systems Corp  
25 SE 2nd Avenue, Suite 1120  
Miami, FL 33131-1605

VERIZON  
500 TECHNOLOGY DR 300  
WELDON SPRING, MO 63304-2225

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).



BANK OF AMERICA  
PO BOX 982235  
EL PASO, TX 79998

Georgia Department of Revenue  
1800 Century Blvd NE Suite 910  
Atlanta, GA 30321

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(d) Adam M. Goodman  
Adam M. Goodman, 13 Trustee  
Suite 200  
260 Peachtree Street  
Atlanta, GA 30303-1236

End of Label Matrix	
Mailable recipients	26
Bypassed recipients	1
Total	27